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DIESEL, U.S.A., INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RYAN GREKO, an individual,) CASE NO. C 10-3492 EDL
Plaintiff,)
vs.)
DIESEL U.S.A., INC., a New York corporation;))
and DOES 1-100, inclusive,)
Defendant.)
STIPULATED REQUEST FOR ORDER
CONTINUING ALL SCHEDULED
DATES AND [PROPOSED] ORDER
AS MODIFIED
[Civil L.R. 6-2]
Class Action
Judge: The Hon. Elizabeth D. Laporte
Courtroom: E, 15th Floor
Action Filed: August 9, 2010

STIPULATION

Subject to the approval of the Court, Plaintiff Ryan Greko (“Plaintiff”) and Defendant Diesel U.S.A., Inc. (“Defendant”) (Plaintiff and Defendant are referred to hereafter as the “Parties”), through their respective counsel of record, hereby AGREE and STIPULATE to a 120-day continuance of the trial date and pre-trial dates and deadlines in accordance with Civil Local Rules 6-1 and 6-2. Good cause exists for this stipulated continuance in that: (1) the Parties have agreed to convene a mediation before Jerry Spolter of JAMS on **December 27, 2011**; (2) the current schedule, which includes a dispositive motions filing deadline of December 13, 2011 and a non-expert discovery cut-off and expert disclosure deadline of December 30, 2011, would require the Parties to complete and bear the expense of major litigation tasks, which (a) could interfere with their ability to settle the case and (b) can be avoided altogether if the case does settle at mediation; and (3) on December 2, 2011 (the date of this Stipulation), new defense counsel, Gordon & Rees LLP, appeared in this case (see: Document 28).

In support of this Stipulation, the Parties state the following:

WHEREAS, on August 30, 2011, pursuant to the Parties' previous Stipulation, the Court issued an Order on Stipulated Request to Continue All Scheduled Dates (Document 27);

WHEREAS, the Parties are also engaged in a parallel class action lawsuit that was filed prior to this lawsuit and is currently pending before the Honorable Richard Seeborg, *Ryan Greko v. Diesel U.S.A., Inc.*, Case No. 3:10-CV-02576 (the “Class Action”);

WHEREAS, the Parties previously had scheduled a mediation of Plaintiff's claims on June 8, 2011, before The Honorable Edward A. Infante (Ret.), which mediation was taken off calendar due to Judge Infante's surgery and the pendency in the Class Action of Defendant's Motion for Summary Judgment and Plaintiff's Motion for Class Certification, which bore on the scope of issues in the then-contemplated mediation of both cases;

WHEREAS, on October 26, 2011, the Court in the parallel Class Action denied Defendant's Motion for Summary Judgment and granted Plaintiff's Motion for Class Certification;

1 WHEREAS, on November 9, 2011, Defendant filed with the Ninth Circuit Court of
2 Appeals, a Petition for Permission to Appeal [the Court's Class Certification Order in the Class
3 Action] Pursuant to Fed. R. Civ. Proc. 23(f) (the "Petition");

4 WHEREAS, on November 14, 2011, Plaintiff filed with the Ninth Circuit a Motion to
5 Extend Time to Respond to Defendant's Petition;

6 WHEREAS, on November 16, 2011, the Ninth Circuit granted Plaintiff's Motion for
7 Extension, extending to December 21, 2011 the deadline for responding to Defendant's Rule
8 23(f) Petition;

9 WHEREAS, on November 28, 2011, Defendant filed a Motion to Stay Proceedings in
10 the Class Action pending the Ninth Circuit's ruling on Defendant's requested appeal of the class
11 certification order;

12 WHEREAS, on December 2, 2011, new defense counsel, Gordon & Rees LLP,
13 appeared in this case and also has recently appeared in the Class Action;

14 WHEREAS, in light of the foregoing, the Parties have agreed to mediate this case
15 separately and have scheduled a mediation on **December 27, 2011**, before Jerry Spolter of
16 JAMS;

17 WHEREAS, the deadlines in the Court's current Case Management Order stand to
18 interfere with this mediation and compromise the Parties' ability to settle the case at mediation,
19 and the Parties believe that the continuance stipulated to herein would maximize the prospects
20 of settling this case;

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1 Now, THEREFORE, the Parties hereby submit this Stipulated Request for an Order
2 Continuing All Scheduled Dates, and request that the Court order all currently scheduled dates,
3 including, but not limited to, the discovery deadline, summary judgment hearing, expert
4 discovery deadline, pretrial conference, and trial, be continued for at least one hundred twenty
5 (120) days.

6 Respectfully submitted,

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8 Dated: December 2, 2011

GORDON & REES, LLP

9
10 By: /s/ Brian P. Maschler
11 Brian P. Maschler
12 Attorneys for Defendant
13 DIESEL U.S.A., INC.

14 Dated: December 2, 2011

LAW OFFICES OF DANIEL L. FEDER

15 By: /s/ Claire Elizabeth Cochran
16 Claire Elizabeth Cochran
17 Attorneys for Plaintiff
18 RYAN GREKO

19 ORDER

20 Pursuant to the parties' stipulated request for a 120-day continuance of the trial date and
21 pretrial dates and deadlines, and for good cause shown, IT IS HEREBY ORDERED that the case
22 management deadlines and pretrial and trial dates previously set by the Court be continued as set
23 forth below:

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- 25 • The Non-Expert Discovery Cutoff is continued from December 30, 2011 to April 30,
26 2012;
- 27 • The deadline for Initial Expert Disclosures is continued from December 30, 2011 to April
28 30, 2012;
- The deadline for Rebuttal Expert Disclosures is continued from January 27, 2012 to May
29, 2012;

- The Expert Discovery Cutoff is continued from February 17, 2012 to June 19, 2012;
- The Dispositive Motion Hearing Deadline is continued from January 17, 2012 to May 22, 2012;
- The Pre-Trial conference is continued from March 19, 2012 to August 8, 2012 at 2:00 p.m.; and
- The Trial is continued from April 23, 2012 to September 10, 2012.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 6, 2011

